## Summary

DFI-Bkg Chapter 10

- 10.03
  - Modifies 10.03 to require the filing of only one notice of appeal and no additional copies. Currently one original and eight copies must be filed.

DFI-Bkg Chapter 14

- 14.07
  - Changes to mirror Federal Reg E's Liability of Customer for Unauthorized Transfers (205.6).
    - Make same changes to SB 12.07, SL 12.07 and CU 63.07.
- 14.08
  - Adds small-value exemption to rule such as in Federal Reg E's 205.9(e) – uses $15 standard that Reg E uses.
    - Makes same changes to SB 12.08, SL 12.08 and CU 63.08
- 14.09
  - Eliminates entire Bkg-14.09 Chargeback rule.
    - Makes same changes to SB 12.09, SL 12.09, CU 63.09

DFI-Bkg Chapter 40

- 40.01
  - Removes references to DFI-Bkg 47 in 40.01, this entire chapter is going to be repealed.
- 40.04(2)
  - Removes "written" from 40.04(2)

DFI-Bkg Chapter 41

- 41.05
  - Modifies 41.05 to remove obsolete language referencing the year 2010.

DFI-Bkg Chapter 46

- 46.01(3)
  - Makes modifications to fix conflict with current statutory definition of "covered loan".

DFI-Bkg Chapter 73

- 73.02(2)(e)
  - Removes language referencing that the examination will occur in the office of the licensee during regular office hours.
- 73.03(1)(a), 73.03(1)(a)(b), 73.05(4) and 73.05(5)
  - Removes references to "the office of the administrator of the division of banking" and replace with "the division of banking".
- 73.03(2)
  - Requires only 1 copy.
    - Remove requirement that a folder of approved forms be kept in the licensed office.
  - Removes reference to "office of the administrator"
- 73.03(7)
  - Repeals section (superseded by s. 218.02(9)(a).)

DFI-Bkg Chapter 74

- 74.07(1)(b) and (c)
    - Removes the term “ledger”.
- 74.08
    - Repeals section.
- 74.11(2)(b)
    - Allows debtors to pay with debit card in the same manner that they would be able to pay with a credit card.
- 74.13(1)
    - Removes division’s mailing address and replaces with web address.

DFI-Bkg Chapter 76

- 76.03(1) and (3), 76.11(1), 76.12(1)(a) and (b), and 76.13(1) and (2)
    - Replaces “the administrator of the division of banking” with “division of banking”.
- 76.06
    - Removes reference to maximum rate.
- 76.07
    - Removes reference to maximum rate.
- 76.09(2)
    - Removes reference to “ledger card”.
- 76.11(2)
    - Repeals section.
        - Office of the Commissioner of Banking became part of DFI in 1996.
- 76.12(2)
    - Removes reference to mobile homes.

## LRB Analysis

### *Rule−making procedures*

Current law sets forth a procedure for the promulgation of administrative rules (rules). Generally, that procedure consists of the following steps:

1. The agency planning to promulgate the rule prepares a statement of the scope of the proposed rule, which the governor and the agency head must approve before any state employee or official may perform any activity in connection with the drafting of the proposed rule.
2. The agency drafts the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, and submits those materials to the Legislative Council Staff for review.
3. Subject to certain exceptions, a public hearing is held on the proposed rule.
4. The final draft of the proposed rule is submitted to the governor for approval.
5. The final draft of the proposed rule, together with an economic impact analysis, plain language analysis, and fiscal estimate for the proposed rule, are submitted to the legislature for review by one standing committee in each house and by the Joint Committee for Review of Administrative Rules.
6. The proposed rule is filed with the Legislative Reference Bureau (LRB) for publication in the Wisconsin Administrative Code (code) and the Wisconsin Administrative Register (register), and, subject to certain exceptions, the rule becomes effective on the first day of the first month beginning after publication.

Under this bill, if a bill that repeals or modifies a rule is enacted, the ordinary rule−making procedures under current law do not apply. Instead, the LRB must publish the repeal or modification, in the code and the register, and the repeal or modification, subject to certain exceptions, takes effect on the first day of the first month beginning after publication.

## TREATMENTS OF ADMINISTRATIVE RULES

This bill modifies and repeals various rules promulgated by the Department of Financial Institutions (DFI), as described below.

### *Remote terminals accessing financial institution accounts*

Under current statutes, a bank, savings and loan association, savings bank, or credit union (collectively, financial institution) may acquire, place, and operate, or participate in the acquisition, placement, and operation of, at locations away from the financial institution, what is variously referred to as customer bank communications terminals, remote terminals, or remote service units (collectively remote terminals), in accordance with rules established by the Division of Banking (division) in DFI or the Office of Credit Unions (OCU) in DFI. A remote terminal is a terminal or other facility that is not located at a financial institution and through which customers and financial institutions may engage in electronic transactions that are incidental to the conduct of the business of financial institutions.

Under current rules of the division and OCU, when any sale of goods or services is paid directly through a remote terminal and involves an aggregate transfer of funds of $50 or more from an account of a financial institution customer to the account of another person, the financial institution must reverse the transaction and recredit the customer's account upon receipt of notice by the customer within three business days after the date of the sale. This process is referred to as a chargeback. This bill repeals this chargeback provision from the rules of the division and OCU.

Under current rules of the division and OCU, the liability of a customer of a financial institution for the unauthorized use of a plastic card or other means providing the customer access to a remote terminal (access card) may not exceed the lesser of the following: 1) $50; or 2) the amount of any money, property, or services obtained by its unauthorized use prior to the time the financial institution is notified, or becomes aware, of circumstances that lead to the belief that unauthorized access to the customer's account may be obtained.

This bill modifies this rule relating to limits on customer liability for the unauthorized use of a remote terminal access card. Under the bill, if the customer notifies the financial institution within two business days after learning of the unauthorized use or of loss or theft of the access card, the customer's liability may not exceed the lesser of $50 or the amount of unauthorized transfers that occur before notice to the financial institution. If the customer fails to notify the financial institution within two business days after learning of the unauthorized use or of loss or theft of the access card, the customer's liability may not exceed the lesser of $500 or the sum of all of the following: 1) $50 or the amount of unauthorized transfers that occur within the two business days, whichever is less; and 2) the amount of unauthorized transfers that occur after two business days and before notice to the financial institution, if the financial institution establishes that these transfers would not have occurred had the customer notified the financial institution within that two−day period. To avoid liability for subsequent transfers, a customer must report an unauthorized transfer from the unauthorized use of a remote terminal access card that appears on a periodic statement within 60 days of the financial institution's transmittal of the statement. If the customer fails to do so, the customer's liability may not exceed the amount of the unauthorized transfers that occur after 60 days and before notice to the financial institution and that would not have occurred if the customer had notified the financial institution within this 60−day period. The customer may also be liable for the amounts specified in the paragraph directly above. If an agreement between the customer and the financial institution imposes less liability than is provided by rule, the customer's liability may not exceed the amount imposed under the agreement.

Under current rules of the division and OCU, every transfer of funds through a remote terminal made by a customer of a financial institution must be evidenced by a written document (receipt) that is made available to the customer at the time of the transaction and that contains specified information, such as the customer's account number, the amount transferred, and the date of the

transaction. This bill modifies these rules to create an exception so that a receipt is not required to be made available if the amount of the transfer is $15 or less.

***Collection agencies***

Under current statutes, a person may not operate as a collection agency unless the person is licensed as a collection agency by the division. A "collection agency" is, with certain exceptions, a person engaged in the business of collecting or receiving for payment for others of any account, bill, or other indebtedness.

Under current rules of the division, if a collection agency mentions its rates in advertising or on its forms, the collection agency's full rate or rates must be stated as a percentage or dollar amount. The collection agency also may not make, advertise, or display any statement or representation with regard to its rates that is false, misleading, or deceptive or that omits material information necessary to make the statement or representation not false, misleading, or deceptive. This bill repeals these provisions from the division's rules.

Under current rules of the division, with exceptions, a collection agency may not charge the debtor any fee or cost incurred in the collection of an account. Under one exception, a fee not exceeding the lesser of $25 or 3 percent of the payment amount may be added to the debtor's account if the debtor makes payment using a credit card. However, this fee may be imposed only if the fee is first disclosed to the debtor and the debtor is not required to pay with a credit card.

This bill modifies these rules to allow, with the same restrictions, the same fee to be imposed when the debtor uses a debit card.

***Adjustment service companies***

Under current statutes, an "adjustment service company" is, with an exception, an individual or business entity engaged as principal in the business of prorating a debtor's income to the debtor's creditors or of assuming a debtor's obligations to the debtor's creditors in return for a service charge or other consideration. To engage in business as an adjustment service company, the individual or business entity must be licensed by the division. There are specified criteria for obtaining such a license and the division has regulatory authority over licensees. The division may make such rules and require such reports as the division deems necessary for the enforcement of the statutory provisions relating to adjustment service companies.

Under current rules of the division, a copy of the contract between an adjustment service company and the debtor must be given to the debtor at the time it is executed and the contract must contain certain provisions, including a statement that the debtor will be permitted to examine his or her accounts in the adjustment service company's office during regular office hours.

This bill modifies the division's rules so that the contract must still include a statement that the debtor will be permitted to examine his or her accounts but is not required to specify that the examination will be in the adjustment service company's office during regular office hours.

Under current rules of the division, all contracts and forms used by an adjustment service company in conducting its business must be submitted in duplicate to the division for prior approval before use. In addition, an adjustment service company must maintain in its office a folder containing the file copy of all approved forms in the order in which the forms were approved.

This bill modifies these rules so that an adjustment service company is not required to submit duplicate copies of contracts and forms to the division and is not required to maintain a folder of approved forms in its office.

Under current rules of the division, each adjustment service company must, on September 15 of each year, submit a report as of July 1 to the division containing such information as the division

requires. This bill repeals this rule requiring each adjustment service company to submit a report on September 15 of each year.

***Mortgage bankers, mortgage brokers, and mortgage loan originators***

Under the division's current rules, a licensed mortgage banker, mortgage broker, or mortgage loan originator (licensee) may conduct business only under the name or names listed on the license and, before using any trade name, must obtain written approval from the division for the use of the trade name. A licensee may not use more than five trade names. This bill modifies the division's rules so that approval of a trade name by the division is not required to be in writing.

***Sales finance companies***

Under current statutes, a "sales finance company" is a person engaged in the business of acquiring retail installment contracts from retail sellers and includes motor vehicle dealers that sell motor vehicles under installment contracts or that acquire retail installment contracts. A "retail installment contract" means a contract to sell a motor vehicle at retail in which the price of the motor vehicle is payable in at least one installment over a period of time and in which the seller has retained title to, or taken a security interest in, the vehicle. A "retail seller" is a person that sells motor vehicles under a retail installment contract to a buyer for the buyer's personal use or consumption. Sales finance companies are licensed by the division. A retail installment sale made after October 31, 1984, is not subject to any maximum finance charge limit. Other credit transactions are also generally not subject to maximum finance charge limits or interest rate limits.

Under current rules of the division, upon refinancing a retail installment contract or consolidating retail installment contracts, the customer is entitled to a rebate of unearned finance charges. The division's rules also specify that the rate of finance charge upon refinancing or consolidation may not exceed the maximum rate applicable by statute if the creditor is a licensed motor vehicle dealer or, if not, the maximum rate at which the creditor could make a loan to the customer.

This bill modifies these rules to eliminate the provisions referencing a maximum rate when a retail installment contract is refinanced or consolidated.

***Review procedure***

Under the division's current rules, any interested person aggrieved by any act, order, or determination of the division related to banking may file with the division an original and eight copies of a notice of appeal seeking review by the Banking Review Board. This bill eliminates the requirement that eight copies of the notice of appeal be filed.

***Technical corrections***

The bill makes other minor, clarifying, technical, or nonsubstantive changes to the division's rules, including changes that conform the division's rules to current statutory provisions.